

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
APPENDIX**

75-1400

B
P/S

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

-----X
UNITED STATES OF AMERICA,
Plaintiff-Appellee,

-against-

THOMAS GRANDE,
Defendant-Appellant,
-----X

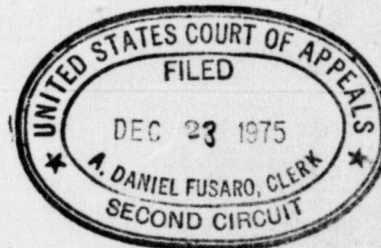
APPEAL FROM THE UNITED STATES
DISTRICT COURT FOR THE EASTERN
DISTRICT OF NEW YORK

DOCKET NO. 75- 1400

APPELLANT'S APPENDIX

ZERIN COOPER & HORLICK
Attorneys for Appellant
26 Court Street
Brooklyn, New York 11242
(212) 855-9252

JAY GREGORY HORLICK
Of Counsel



PAGINATION AS IN ORIGINAL COPY

TABLE OF CONTENTS

Docket Entries (3 pages)

Indictment (1 page)

Trial transcript (27 pages)

Judgment & Committment

THE UNITED STATES

LAZARUS

THOMAS GRANDE

heft of goods in i.c.c.

ABSTRACT OF COSTS

AMOUNT

DISBURSED

1500 00

912.00 4/1/74
488.00 11/1/74

F

F

ioner's Court,

PROCEEDINGS

- 9/19/74 Before Judd, J - Indictment filed.
- 10/3/74 Before BARTELS, J. - Case called - deft and counsel Vincent Tomaselli present - Deft enters a plea of not guilty - Deft's motion for discovery - granted - Trial set down for 11/4/74 at 10:00 A.M. - Bail: O.R.
- 11/4/74 Before BARTELS J - case called - trial adjd to 12-9-74.
- 12/9/74 Before Bartels J - case called - deft & counsel Vincent Tomaselli present - AUSA not present - AUSA Puccio present at 10:25 am - Case put on 24 hours notice.
- 12/24/74 Before BARTELS, J. - Case called - counsel present - Deft not present - adjd to 12/31/74 for pleading
- 12/31/74 Before BARTELS, J. - Case adjd to 1/10/75 at 9:30 A.M.
- 1/10/75 Before BARTELS J - case called - deft & counsel present - deft enters a plea of not guilty - trial set down for 3-24-75

74CR 575

DATE	
1-16-75	Notice of Readiness for Trial filed
3/24/75	Before BARTELS, J.- Case called- Deft and counsel present- Trial adjd to 4/21/75 at 10:00 A.M.
* 4-22-75	Before BARTELS J - case called - deft & counsel present - Govts motion to amend indictment - Granted (see Record) Trial ordered & BEGUN- Jurors selected and sworn - Trial contd to 4-23-75.
4-23-75	Redacted Indictment filed.
* 4/23/75	Before BARTELS, J.- Case called- Deft and counsel present-Trial resumed- Deft's motion to dismiss on grounds that govt has failed to prove prima facie case argued- denied- Deft's motion to dismiss-reasonable doubt-denied- deft's motion to exclude certain evidence-denied- Deft's motion for direction of court re:photos- denied-Jury retires to deliberate-Order of sustenance signed-Jury reports to court that they are hopelessly deadlocked at 6-6 Court declares mistrial -Jury dismissed-Trial concluded-Status report set down for 5/7/75 at 9:30 A.M.
4/23/75	By BARTELS, J.- Order of sustenance filed
5-7-75	Before BARTELS J - case called - trial set down for July 10, 1975 - AUSA Goldman to notify Mr. Tomaselli (counsel for the deft)
* 7-14-75	Before BARTELS J - case called - deft & counsel present - trial contd to 1:00 PM - trial adjd to July 15, 1975.
7/15/75	Before BARTELS, J.- Case called Deft and counsel present- Trial order begun-Jurors selected and sworn-Govt rests-Deft's motion to dismiss denied Trial contd to 7/16/75
* 7-17-75	By BARTELS J - Order of sustenance filed (Lunch)
7-17-75	Before BARTELS J - case called - deft & counsel Vincent Tomaselli present - trial resumed- Govts motion to reopen argued - granted - Order of Sustenance signed - Jury retires for deliberations at 12:40 PM- at 3:15 PM jury returns with a verdict of guilty -defts motion to set aside the verdict is denied - sentence adjd without date - bail contd. Jury is excused with the thanks of the Court - trial concluded.
7/18/75	Govt's memorandum of law filed
9-5-75	Before BARTELS J - case called - deft & counsel V. Tomaselli present Deft is sentenced to three years pursuant to 18:3651 - to serve one month and execution of remainder of sentence is suspended and the deft is placed on probation for 2 years and 11 months. Also imposed is a fine of \$1500. Deft to surrender on Oct. 3, 1975.
9-5-75	Judgment & Commitment and Order of Probation filed - certified

CRIMINAL DOCKET

DATE

DESCRIPTION

F.

9-12-75 Notice of Appeal filed.
 9-12-75 Docket entries and duplicate of Notice of Appeal mailed
 to the Court of Appeals.
 9-29-75 Order received from the Court of Appeals that Index to
 Record be docketed on or before 10-10-75.
 11-17-75 Order filed received from the Court of Appeals that the
 appeal from the judgment of the U.S. for the Eastern District
 of New York be dismissed.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA

- against -

THOMAS GRANDE,

Defendant.

- - - - - X

THE GRAND JURY CHARGES:

COUNT ONE

On or about the 29th day of April 1974, within the Eastern District of New York, the defendant THOMAS GRANDE, did wilfully and unlawfully receive and have in his possession approximately 19 carcasses of beef having a value of approximately Nine Thousand Five Hundred Dollars (\$9,500), which goods had been stolen from a tractor trailer while moving as a part of and constituting an interstate shipment of freight from Dubuque, Iowa to New York, New York, the defendant THOMAS GRANDE, knowing the same to have been stolen. (Title 18, United States Code, §659).

A TRUE BILL.

FOREMAN

UNITED STATES ATTORNEY

INDICTMENT

Cr. No. 74 CR 575
(T. 18, U.S.C., §659)

Barbels, 5
September 23, 1974

1
2 A Every United States Department of Agriculture
3 meat inspected company has their own brand.

4 MR. GOLDMAN: No further questions,
5 your Honor.

6 CROSS-EXAMINATION

7 BY MR. TOMASELLI:

8
9 Q Mr. Noel, you testified that you are
10 presently the traffic manager at the Dubuque Packing Company,
11 is that right?

12 A Yes.

13 Q And in April 1974 you were the assistant
14 traffic manager, is that right?

15 A That is right.

16 Q You said pursuant to a question asked by
17 the United States Attorney that approximately ten million
18 pounds of meat is shipped out of Dubuque Packing Company
19 every week, is that right?

20 A That is right.

21 Q And every week ten million pounds of meat
22 have the stamp 396 on it, is that right?

23 A That is right.

24 Q You also said that meat is shipped to
25 Midtown Provision which is in New York City twice a week, is

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

that right?

A That is right.

Q Do you ship to any other provision house
in New York City?

A We do.

Q How many?

A Are we talking by truck or - -

Q Any way you ship, do you ship to any other
provision houses in New York City?

A Yes, sir, approximately to the best of my knowledge
probably ten to fifteen loads per week.

Q Ten to fifteen loads per week?

What would be your estimate of approximately how much meat
in pounds would be coming into New York City weekly from
Dubuque Packing?

A Approximately 38,000 pounds per week.

Q You said there is approximately fifteen
loads per week?

A Between ten and fifteen, it would vary.

Q A rough estimation in poundage would be
how much?

A Well, 50 to 60 - - excuse me, 450,000 pounds, roughly.

Q Close to half-million pounds of meat coming
into New York City with the stamp 396 on it?

1
2 A That is right.

3 Q When the meat comes into New York City
4 where does it normally go, to a provision house, is that
5 right?

6 A Yes, sir.

7 Q And from the provision house it is then
8 distributed by the provision house to various butchers and
9 retailers, is that right, or to other wholesalers?

10 A I myself wouldn't know what happens to it after it
11 reaches here. I have no knowledge of where it is going
12 after they receive it.

13 Q In the normal course of business are you
14 familiar with the normal course of business as a traffic
15 manager with regard to meat, the process of meat leaving
16 your premises in Dubuque, Iowa and coming into New York City
17 and what happens to it after that point?

18 A No, I believe that they would be selling it to their
19 customers but I wouldn't have to my own knowledge, I
20 wouldn't know where it would be going in this area.

21 Q You wouldn't know it specifically to which
22 customers it would be going?

23 A No.

24 Q But you would know that the customers that
25 are purchasing from you are purchasing it for redistribution,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

is that right?

A That is right.

Q And when they redistribute it or when they purchase it from you you have no contact with that meat, is that right, from that point on?

A That is right.

Q Going back to April 1974 you stated that Dubuque Packing Company received an order from Midtown Provisions, is that right?

A That is right.

Q And that order called for 192 pieces of meat, is that right?

A Yes.

Q 192 pieces of meat, did you see any of that meat personally?

A No, sir, I did not.

Q In other words, you never saw one piece of that meat, is that right?

A Right.

Q But you believe through the normal course of business that that meat was placed on a truck, is that right?

A That is right.

Q Mr. Noel, you stated that to your knowledge

1
2 Honor, and there was no record I had seen,
3 looking through records.

4 THE COURT: You did look through
5 the records?

6 THE WITNESS: That is right.

7 THE COURT: And you did not find
8 any highjackings. All right, next question.

9 BY MR. TOMASELLI:

10 Q You said you looked through the records.
11 Did you make a search of the records personally or
12 did you ask a supervisor of yours to make a search?

13 A I looked through the prior claims that we had which
14 would indicate through my training and also I did mention to
15 my former boss and he didn't recall any in the last couple
16 of years, the last two or three years.

17 Q Now, Mr. Noel, you say you have been in the
18 meat packing business for approximately twenty years, is that
19 right?

20 A That is right.

21 Q Through your expertise in the meat packing
22 business and industry, are you able to tell one kind of beef
23 from another kind of beef by looking at it?

24 A I could not personally.

25 Q Mr. Noel, if a hind of beef has the number

1
2 396 on it would you know from what shipment in your
3 packing company that hind of beef came from?

4 A No, I would not.

5 Q Mr. Noel, when you would see the - -

6 THE COURT: Just one moment, I did
7 not understand your question.

8 MR. TOMASELLI: Which one, your Honor?

9 THE COURT: When you asked him, what
10 do you call them, hinds of beef?

11 MR. TOMASELLI: A hind of beef, hind
12 quarters.

13 THE COURT: If he looked at two hinds
14 of beef with a number 396 on it could he
15 what?

16 MR. TOMASELLI: Could he tell from
17 which shipment the hind of beef came from.

18 THE COURT: But you could tell it
19 was from Dubuque Packing Company, is that
20 right?

21 THE WITNESS: Yes, your Honor.

22 BY MR. TOMASELLI:

23 That is the only thing you could tell, is that right?

24 A That is right.

25 Q So you could not tell whether or not that

1
2 was part of the alleged stolen merchandise, could you?

3 A No, not just from the 396. All it would tell me
4 it was from Dubuque Packing, Iowa.

5 MR. TOMASELLI: I have no further
6 questions.

7 THE COURT: Any redirect?

8 MR. GOLDMAN: No, your Honor.

9 THE COURT: Next witness.

10 Thank you.

11 (Witness excused.)

12 R O G E R H E D R I C K , called as a witness, having
13 been first duly sworn by the Clerk of the Court,
14 testified as follows:
15

16 DIRECT EXAMINATION

17 BY MR. GOLDMAN:

18 Q Mr. Hedrick, are you employed?

19 A Yes.

20 Q By whom are you employed?

21 A I am employed by the Dubuque Packing Company in
22 Dubuque, Iowa, supervisor of the shipping dock.

23 Q Generally what are your responsibilities
24 and duties?
25

1
2 Q Where were you when it was being loaded?
3 A Right there on the dock supervising, walking around.
4 Q How many other trailers were being loaded
5 at that particular time?
6 A At that particular time at that particular place,
7 three trucks.
8 Q Three trailer trucks?
9 A Yes.
10 Q Where were the other two going?
11 A At the time I could not tell you, sir. At any
12 particular time I can't tell you, sir.
13 Q The week of April 29 and just prior to that,
14 how many trailer trucks of your own personal knowledge would
15 you say were loaded at Dubuque Packing Company for New York
16 City?
17 A For New York City?
18 Q Yes.
19 A Just that one particular week?
20 Q Just that one particular week.
21 A It could have been from ten to fifteen loads coming
22 into the New York area, sir.
23 Q Would you say ten to fifteen loads of beef
24 left Dubuque Packing Company that particular week, the week
25 we are talking about in April?

1

2

A That is possible, yes, sir.

3

Q Every piece of meat that left Dubuque

4

Packing Company in that particular week, did that have the stamp 396 on it?

5

6

A Yes, sir.

7

Q It also contained a tag?

8

A Yes, sir.

9

Q So it is your testimony that every piece of

10

meat had an identification stamp of 396 on it that left

11

Dubuque Packing Company that week?

12

A Yes, 396 is stamped on all carcasses of beef.

13

Q How many pieces of meat would you say left

14

Dubuque Packing for New York City that particular week?

15

A You want an average?

16

Q Well, to the best of your knowledge.

17

A Well, this load here is 192 pieces.

18

Q And the other fourteen loads?

19

A Well - -

20

THE COURT: He said the other ten.

21

Q He said ten to fifteen?

22

A I said ten to fifteen, I could be off one or two.

23

Q The other nine loads?

24

A Well, say an average of 192 pieces, it all depends on what the customer wants and orders.

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q Give me an average of approximately how many additional pieces of beef left Dubuque Packing Company for New York City with the stamp 396 on it within that week.

A I would say average of 190 pieces per load, say ten times that.

Q So you would estimate say approximately 2000 pieces of meat?

A Yes, sir.

Q Now the 2000 pieces of meat that left the Dubuque Packing and came into New York City, do you know what happened to that meat when it reached New York City?

A It went to the particular customers where the bills say for.

Q Now, you know of your own knowledge what happened to the beef after it reached the designated customer?

A Do I know?

Q Of your own personal knowledge.

A Knowledge - - it goes to the customer and they cut it up and it goes out to particular people here in the city.

Q In other words, you sell to customers for resale to other customers, is that right?

A Yes, sir, we sell to big customers here in the City of New York where they break it down and sell it to other people.

1
2 Q Now, Mr. Hedrick, I call your attention
3 again to the week just prior to April 29. Of your own
4 knowledge how many pieces of beef went to Midtown Provision?

5 A That particular week?

6 Q Yes.

7 A On an average to Midtown Provision there was
8 shipped from two loads a week - -

9 Q Of your own knowledge how many pieces would
10 you say Midtown Provisions received that particular week?

11 A 284 pieces.

12 Q 284 pieces?

13 THE COURT: This is prior to April 29?

14 Q Prior to the 29th of April and the week
15 just before that?

16 A Possibly the same thing, sir.

17 Q And the week of the 29th of April?

18 A Very possible, yes, sir.

19 Q So you would say within a period of ten days
20 - - withdrawn.

21 Would you say within a 10-day period
22 Midtown Provisions would receive from Dubuque Packing
23 approximately 600 pieces of beef?

24 A It is possible, sir.

25 THE COURT: What did you say?

in evidence.

THE COURT: Subject to connection.

THE CLERK: Government Exhibit 4
marked in evidence.

(So marked.)

THE COURT: Give it to Mr. Tomaselli
or the witness as the case may be.

THE CLERK: Marked in evidence
subject to connection.

BY MR. TOMASELLI:

Q Mr. Hedrick, take a look at that photograph.
What do you see?

A I see four hindquarters of beef and a gentleman is
looking at it.

THE COURT: What exhibit is that?

THE CLERK: Exhibit 4 subject to
connection.

Q Mr. Hedrick, you testified before that you
know that beef came from Dubuque Packing because of the
stamp number 396, is that right?

A Yes, sir.

Q Can you tell me what date that left
Dubuque Packing from looking at that photograph?

A This particular photograph?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q Yes.

A No, sir, I can't.

Q Can you tell me if that is the merchandise that left Dubuque Packing just prior to April 29, 1974 from looking at that photograph?

A No, I cannot, sir.

Q Can you tell me if you are able to distinguish one hind of beef from another hind of beef with the same stamp number 396 on it from any other hind of beef with that number?

THE COURT: He answered that question once before.

MR. TOMASELLI: I think the other witness did, your Honor.

A What do you mean, sir?

Q Well, are you able to distinguish from viewing that hind of beef - - withdrawn.

Can you distinguish from viewing the hind of beef from the photograph that that particular hind of beef came from Dubuque Packing Company with regard to the 192 pieces that you were testifying to that were highjacked?

A Sir, anything that has a 396 on it comes from Dubuque Packing Company because there is only one stamp for 396 and that is the sign to our place of business and there

1
2 is no other 396.

3 Q Can you tell me that you can testify that
4 from viewing that particular photograph that those hinds
5 of beef that you are looking at in that photograph came from
6 the shipment of 192 pieces of beef that left Dubuque Packing
7 Company?

8 A This particular picture, no, I cannot say. All I
9 can say is it came from us, just beef.

10 Q But you cannot tell us it came from Dubuque
11 Packing that that was part of the 192 pieces that left
12 Dubuque, can you?

13 MR. GOLDMAN: Your Honor, I object,
14 there are two questions and they are
15 repetitious.

16 THE COURT: Why don't you break it
17 down, Mr. Tomaselli?

18 Q The 192 pieces that left Dubuque Packing,
19 are you able to identify those four pieces as coming from
20 the 192 that left Dubuque Packing just prior to April 29?

21 A In this particular shipment we are talking about
22 all I can tell you this came from Dubuque Packing, 396, but
23 I cannot say it came from that particular load, no.

24 Q That is all I want.

25 MR. DRUKER: I object to speeches

3 A The whole thing.

4 Q The entire bundle was 70,000, is that right?

5 A That is right.

6 Q And you estimate that there was approximately
7 38,000 pounds of cargo, is that right?

8 That is right, sir.

9 Q Did you ever weigh the cargo after your
10 truck was recovered?

11 | A | I didn't, no.

12 Q So you really cannot say how much was
13 recovered, is that right?

14 MR. GOLDMAN: I am going to object.

15 He never testified he knew how much was
16 recovered.

17 THE COURT: No, the trailer was half-
18 filled when he looked into on Monday morning
19 he testified and the beef was hung up and
20 some was lying down. And he said when he
21 started judging from the bill of lading and
22 the weight it was full, that is the testimony.

23 Q And you said that full it weighed 38,000
24 pounds of cargo, is that right?

Q Yes, sir.

1
2 Q Is that your testimony?

3 A Yes, 32,000 pound tractor and trailer and that
4 leaves 38,000.

5 Q My question to you is, did you weigh your
6 cargo after it was recovered on Monday morning to determine
7 how much was left?

8 A No, sir.

9 THE COURT: After he saw it Monday
10 morning.

11 Q After you saw it Monday morning did you
12 weigh it again?

13 A No, I didn't.

14 Q So you can't say how much was missing, is
15 that right?

16 MR. GOLDMAN: I will object to the
17 form of the question.

18 THE COURT: No, it is all right.

19 What he says is that you did not
20 look in at the beginning although you weighed
21 it at the beginning and you did not weigh it
22 at the end and you cannot say there was anything
23 lost, is that your question?

24 MR. TOMASELLI: That is my question to him.

25 THE WITNESS: In order to carry 38,000

pounds - -

Q That is not - -

THE COURT: Let him answer. If you ask him a question you have to let him answer.

THE WITNESS: In order to carry 38,000 pounds of beef on a 40-foot trailer, it is a full trailer almost back to the end and that is how I come to the conclusion that it was a full trailer and when I looked in there and it was half, half of it was gone, half of the load, the front half was still full.

Q Mr. Wilson, did you attempt to count the pieces that were in that truck on Monday morning?

A No, I could not and I did not.

Q Did you attempt to count the pieces that were in that truck?

MR. GOLDMAN: Objection.

THE COURT: He said he did not do it. Whether he attempted to or not is immaterial.

Q You do not know how many pieces were left in that truck Monday morning, if in fact there were 192

1
2 pieces that you allegedly took out of the Dubuque Packing
3 Company plant, is that right?

4 MR. GOLDMAN: I object to the
5 form of the question.

6 THE COURT: Yes, I think the form
7 is objectionable, break it down, it is
8 in the form of a conclusion.

9 Q Mr. Wilson, on Monday morning when you saw
10 the meat in the trailer you said you saw some meat on the
11 floor and you saw some meat hanging up and you know from
12 your bill of lading that there were 192 pieces of meat that
13 you left Dubuque Packing plant with, is that right?

14 A According to my bill there were 192 pieces.

15 Q On Monday morning you saw this trailer open,
16 is that right?

17 A Yes, sir.

18 Q You saw meat on the floor and you saw meat
19 hanging up, is that right?

20 MR. GOLDMAN: I am going to object,
21 we have been through this once already.

22 THE COURT: No, you may go ahead
23 Mr. Tomaselli. It is pertinent.

24 THE WITNESS: State your question
25 again, please.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q You say Monday morning when the doors were open of the trailer truck and meat was on the floor and meat was hanging up, is that right?

A That is right, sir.

Q And you testified to this Court that you were able to tell how much meat was in that truck by two means, is that right?

A What two means?

THE COURT: At what time?

Q Prior to the truck being taken from you and at the point you picked up the load from Dubuque Packing you were able to tell how much meat was in that truck by two means, one by a physical count, 192 pieces, right?

THE COURT: No, he did not say by a physical count.

THE WITNESS: I didn't count it, I couldn't.

Q You knew there were 192 pieces?

THE COURT: Now wait a minute, he said he could tell that it was a full truck by its weight and also by the fact that the beef would have a certain slant when he turned corners. I think that is what he said.

Am I correct?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE WITNESS: Yes, sir.

Q Did you drive that tractor-trailer out of here on Monday?

A No, I did not.

Q So you cannot really tell if it felt the same, is that right?

THE COURT: You are talking about - -

MR. TOMASELLI: After it was discovered, your Honor.

Q You really couldn't tell how it felt on Monday?

MR. GOLDMAN: I will object, he said he did not drive it out.

THE COURT: He never said he could tell how it felt on Monday.

Q You did not attempt to weigh the meat nor did you weigh the meat that was found in your trailer on Monday morning so you did not know if there was one pound missing or if the whole 38,000 pounds was there? There was no means of your determining accurately how much was missing, is that right?

A How accurately do you want it, counsel?

Q Let me put it to you this way, if you were the owner of that meat would you want to know how much beef

1
2 say for insurance purposes was left and how much you
3 could claim?

4 MR. GOLDMAN: Your Honor, I am
5 going to object to it, I do not see the
6 relevance at all.

7 THE COURT: No. Mr. Tomaselli, I
8 think I understand you very well. Now
9 don't do it again.

10 You understand me, I think.

11 MR. TOMASELLI: Yes, I understand
12 you, Judge.

13 THE COURT: Have you answered the
14 question? What he is trying to get at is
15 this. You did not know when you looked into
16 that truck Monday morning in reality whether
17 anything was missing?

18 Is that what you are asking?

19 MR. TOMASELLI: That is what I am
20 asking.

21 THE COURT: You did not know, you
22 could not tell, is that true?

23 THE WITNESS: In order for me to
24 carry 38,000 pounds, your Honor, of swinging
25 beef that trailer would have to have been full

1
2 and as I stated before when I looked into
3 the trailer it was only approximately half
4 full. Now how much was missing to the
5 pound or to the piece I cannot tell you
6 because I do not know but I do know that
7 when I pulled that weight out of there and
8 the way it pulled around the corners, going
9 around the corners, I had a full load.

10 BY MR. TOMASELLI:

11 Q Mr. Wilson, you have been pulling beef
12 for a long time, is that right?

13 A Yes, sir.

14 Q You know beef comes in different sizes,
15 is that right?

16 A Different weights for different quarters.

17 Q Different sizes, is that right?

18 A Yes, sir.

19 Q In other words, if you have hinds of beef,
20 192 hinds of beef hung up and they all weigh 400 pounds or
21 say 250 pounds each, that is possible, isn't it, on 1,000
22 pounds?

23 A I am not qualified to say how much waste there will
24 be on 1,000 pounds of animal. In other words you have the
25 hides, you have the horns. The only thing I know is that

1
2 Q Did you attempt to count the pieces of
3 beef on the trailer?

4 A No, I did not.

5 Q Did you attempt to weigh the beef on the
6 trailer?

7 A No, I did not.

8 MR. TOMASELLI: I have no further
9 questions.

10 MR. GOLDMAN: I have a few short
11 questions.

12 REDIRECT EXAMINATION

13 BY MR. GOLDMAN:
14

15 Q Agent Garber, after Mr. Grande's arrest
16 did you have occasion to speak to him?

17 A Yes.

18 MR. TOMASELLI: I am going to object
19 with regard to any statements made after the
20 arrest unless the United States Attorney can
21 show - -

22 THE COURT: Just a moment, let me ask
23 you gentlemen up to side bar.

24 (Side bar held without the hearing
25 of the jury as follows:)

1
2 were in his store for what purpose?

3 MR. GOLDMAN: Your Honor, could
4 we get that rephrased, there are about
5 three different questions - -

6 THE COURT: I don't understand
7 that one.

8 Q What purpose were you in Mr. Grande's store
9 subsequent to the date of April 29th?

10 A It was either - - I either was notified by you,
11 Mr. Tomaselli, or by Mr. Druker that you had requested
12 that I or that FBI agents come to Mr. Grande's market
13 because he wanted to look at pictures of known and suspected
14 hijackers that we planted in our photo albums, and I was
15 told that he would look at the pictures and try to identify
16 the people who sold him the meat, the stolen meat.

17 MR. TOMASELLI: Thank you.

18 THE COURT: All right.

19 MR. GOLDMAN: No further questions,
20 your Honor.

21 (The witness was excused.

22 THE COURT: Call the next witness then.

23 MR. GOLDMAN: The government rests,
24 your Honor.

25 THE COURT: The government rests.

1 that --

2 THE COURT: All right. Let's put them in
3 evidence.

4 MR. DRUCKER: At this time -- your Honor, may
5 I read a statement into the record?

6 THE COURT: Tell the jury what you're doing.
7 Whose statement it is.

8 MR. DRUCKER: This statement that I'm about
9 to read into the record are statements or answers
10 given to certain questions by Mr. Grande on a separate
11 occasion. And, on this occasion, Mr. Grande was asked,
12 "How much did you pay for the meat that you purchased?

13 "Answer: \$1500."

14 Mr. Grande was further asked, "Did you get a
15 receipt for a bill?" And his answer was, "I did. It
16 was on a Saturday and we were very busy. In the
17 process of them unloading the meat, I had four men
18 behind the counter and customers coming in and out."

19 Further, from the same statement, Mr. Grande
20 was asked and gave the following answers, "Did you
21 know whether or not the meat was coming from a whole-
22 saler?

23 "Answer: It had to come from a wholesaler, they
24 had numbers on them.

25 "Question: Why didn't you call?

1 "Answer: As long as there was a USDA stamp
2 on it, it's been inspected.

3 "Question: At some time?

4 "Answer: Yes.

5 "Question: Why didn't you call the wholesaler?

6 "Answer; I didn't feel it necessary to. I
7 didn't think about it. I thought it was perfectly
8 legitimate.

9 "Question: What kind of receipt did these
10 two men give you that delivered this meat to you?

11 "Answer: They gave me an ordinary receipt from
12 a book. I remember it was yellow with blue lines,
13 but it was all soiled and one of them -- I was very
14 busy waiting on customers. One of the men, after I
15 gave him the money, I said give me a receipt. He
16 said, come out to the truck and I'll give it to you.
17 So, I sent one of the men out to get it. After a
18 few minutes he came back with it. It was all soiled
19 and wet, so I said, put it on the back counter over
20 there and that was the last I saw of it. With the
21 air conditioner on it might have gotten lost in the
22 shuffle, even on Monday morning I couldn't find it.

23 "Question: Who signed the receipt?

24 "Answer: Well, I didn't actually see it because
25 I sent one of the men out.

1 "Question: How about the truck that delivered
2 the meat. What was the name of the company on the
3 truck?

4 "Answer: There was no name."

5 Your Honor, so the jury doesn't have this in
6 a vacuum, I'd just like to submit that these questions
7 and answers relate to the same matters.

8 THE COURT: Yes.

9 MR. DRUCKER: On the subject matter of this
10 trial.

11 At this time the government would call Joseph
12 Burns.

13 J O S E P H B U R N S, called as a witness
14 on behalf of the government, having been first duly
15 sworn by the Clerk of the Court, testified as follows:

16 THE COURT: Proceed.

17 DIRECT EXAMINATION

18 BY MR. GOLDMAN:

19 Q Mr. Burns, were you employed in April of 1974?

20 A Yes, sir.

21 Q And how were you employed?

22 A I was a police officer with the New York City
23 Police Department, assigned to the 73rd Precinct in Brooklyn.

24 Q In what capacity?

25 A I was on radio monitor patrol in uniform.

THOMAS GRANDE

H. FILMED

DOCKET NO.

74 CR 575

In the presence of the attorney for the government
the defendant appeared in person on this date

COUNSEL

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to
have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

Vincent Tomaselli, Esq.

(Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that
there is a factual basis for the plea,☐ NOLO CONTENDERE,

U.S. DISTRICT COURT, N.Y.

SEP 8 1975

There being a finding/verdict of

☐ NOT GUILTY. Defendant is discharged☒ GUILTY.FINDING &
JUDGMENT

Defendant has been convicted as charged of the offense(s) of violating T-18, U.S. Code, Sec. 659
in that on or about April 29, 1974, the defendant, did wilfully and
unlawfully receive and have in his possession approximately 19
quarters of beef, having a value in excess of \$100.00, which goods
had been stolen from a tractor-trailer while moving as part of and
constituting an interstate shipment of freight from Dubuque, Iowa
to New York, N.Y., the defendant knowing the same to have been
stolen

SENTENCE
OR
PROBATION
ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary
was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is
hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of 3 years
and pursuant to T-18, U.S.C. Sec. 3651, the defendant is to serve one
month, and execution of remainder of sentence is suspended and the defen
dant is placed on probation for a period of 2 years and 11 months. Also
imposed is a fine of \$1,500.00. The defendant is to surrender on October
3, 1975.

SPECIAL
CONDITIONS
OF
PROBATIONADDITIONAL
CONDITIONS
OF
PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the
reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at
any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke
probation for a violation occurring during the probation period.

COMMITMENT
RECOMMEN
DATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver
a certified copy of this judgment
and commitment to the U.S. Mar-
shal or other qualified officer.

SIGNED BY

K. B. [Signature]

Date

9/5/75

7



RECEIVED
U.S. ATTORNEY

DEC 23 2 12 PM '75

EAST. DIST. N. Y.

R. De Mals